

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 136

HOUSE BILL 2391

AN ACT

AMENDING TITLE 36, CHAPTER 29, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2905; AMENDING TITLE 36, CHAPTER 29, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2944.01; RELATING TO ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 36, chapter 29, article 1, Arizona Revised Statutes,
3 is amended by adding section 36-2905, to read:

4 36-2905. Removal of medicaid special exemption for payments to
5 contractors; civil penalty

6 A. NOTWITHSTANDING ANY OTHER LAW, BEGINNING ON OCTOBER 1, 2003, EACH
7 CONTRACTOR SHALL PAY TO THE DIRECTOR OF THE DEPARTMENT OF INSURANCE A TAX
8 EQUAL TO TWO PER CENT OF THE TOTAL CAPITATION, INCLUDING REINSURANCE, AND ANY
9 OTHER REIMBURSEMENT PAID TO THE CONTRACTOR BY THE ADMINISTRATION FOR PERSONS
10 ELIGIBLE PURSUANT TO SECTION 36-2901, PARAGRAPH 6, SUBDIVISIONS (a) AND (g)
11 AND ARTICLE 4 OF THIS CHAPTER. THE TAX SHALL BE PAID IN FOUR PAYMENTS
12 PURSUANT TO SUBSECTION C OF THIS SECTION AND DEPOSITED IN THE STATE GENERAL
13 FUND PURSUANT TO SECTIONS 35-146 AND 35-147.

14 B. THE CONTRACTOR SHALL NOT DEDUCT ANY DISALLOWANCE OR PENALTY IMPOSED
15 BY THE ADMINISTRATION PURSUANT TO THIS CHAPTER FROM THE FINANCIAL INFORMATION
16 SUBMITTED TO THE DIRECTOR OF THE DEPARTMENT OF INSURANCE.

17 C. EACH CONTRACTOR SHALL FILE THE ESTIMATED TAX AND DOCUMENTATION WITH
18 THE DIRECTOR OF THE DEPARTMENT OF INSURANCE ON A FORM PRESCRIBED BY THE
19 DIRECTOR OF THE DEPARTMENT OF INSURANCE TO PAY THE ESTIMATED TAX. A
20 CONTRACTOR SHALL MAKE ESTIMATED TAX PAYMENTS TO THE DIRECTOR OF THE
21 DEPARTMENT OF INSURANCE FOR DEPOSIT IN THE STATE GENERAL FUND PURSUANT TO
22 SECTIONS 35-146 AND 35-147. THE TAX PAYMENTS ARE DUE ON OR BEFORE SEPTEMBER
23 15, DECEMBER 15, MARCH 15 AND JUNE 15 OF EACH YEAR. THE AMOUNT OF THE
24 PAYMENTS SHALL BE AN ESTIMATE OF THE TAX DUE FOR THE QUARTER THAT ENDS IN THE
25 MONTH THAT PAYMENT IS DUE.

26 D. ON OR BEFORE APRIL 1, 2004 AND ANNUALLY ON OR BEFORE APRIL 1
27 THEREAFTER, THE DIRECTOR OF THE DEPARTMENT OF INSURANCE SHALL USE DATA
28 PROVIDED BY THE ADMINISTRATION TO RECONCILE THE AMOUNT PAID BY EACH
29 CONTRACTOR PURSUANT TO THIS SECTION WITH THE ACTUAL AMOUNT OF TITLE XIX AND
30 TITLE XXI REIMBURSEMENT MADE BY THE ADMINISTRATION TO THE CONTRACTOR IN THE
31 PRECEDING CALENDAR YEAR. IF THERE IS A DISCREPANCY IN THE TWO AMOUNTS, THE
32 DIRECTOR OF THE DEPARTMENT OF INSURANCE SHALL NOTIFY THE CONTRACTOR OF THE
33 DIFFERENCE, PROVIDE A NOTICE OF RIGHT OF APPEAL AND BILL THE CONTRACTOR FOR
34 THE UNPAID AMOUNT OF THE PREMIUM TAX OR, IF THERE IS AN OVERPAYMENT, THE
35 DIRECTOR OF THE DEPARTMENT OF INSURANCE SHALL EITHER REFUND THE AMOUNT OF THE
36 OVERPAYMENT TO THE CONTRACTOR OR ISSUE A CREDIT FOR THE AMOUNT OF THE
37 OVERPAYMENT THAT THE CONTRACTOR CAN APPLY AGAINST FUTURE TAX OBLIGATIONS
38 PRESCRIBED BY THIS SECTION.

39 E. A CONTRACTOR WHO FAILS TO FILE AN ESTIMATED PAYMENT OR PAY AN
40 UNPAID PREMIUM TAX AS PRESCRIBED BY THIS SECTION IS SUBJECT TO A CIVIL
41 PENALTY EQUAL TO THE GREATER OF TWENTY-FIVE DOLLARS OR FIVE PER CENT OF THE
42 AMOUNT DUE AND IS SUBJECT TO INTEREST ON THE AMOUNT DUE AT THE RATE OF ONE
43 PER CENT PER MONTH FROM THE DATE THE AMOUNT WAS DUE.

1 Sec. 2. Title 36, chapter 29, article 2, Arizona Revised Statutes, is
2 amended by adding section 36-2944.01, to read:

3 36-2944.01. Removal of medicaid special exemption for payments
4 to program contractors; civil penalty

5 A. NOTWITHSTANDING ANY OTHER LAW, BEGINNING ON OCTOBER 1, 2003, EACH
6 PROGRAM CONTRACTOR SHALL PAY TO THE DIRECTOR OF THE DEPARTMENT OF INSURANCE
7 A TAX EQUAL TO TWO PER CENT OF THE TOTAL CAPITATION, INCLUDING REINSURANCE,
8 AND ANY OTHER REIMBURSEMENT PAID TO THE PROGRAM CONTRACTOR BY THE
9 ADMINISTRATION FOR PERSONS ELIGIBLE PURSUANT TO SECTION 36-2931, PARAGRAPH
10 5. THE TAX SHALL BE PAID IN FOUR PAYMENTS PURSUANT TO SUBSECTION C OF THIS
11 SECTION AND DEPOSITED IN THE STATE GENERAL FUND PURSUANT TO SECTIONS 35-146
12 AND 35-147.

13 B. THE PROGRAM CONTRACTOR SHALL NOT DEDUCT ANY DISALLOWANCE OR PENALTY
14 IMPOSED BY THE ADMINISTRATION PURSUANT TO THIS CHAPTER FROM THE FINANCIAL
15 INFORMATION SUBMITTED TO THE DIRECTOR OF THE DEPARTMENT OF INSURANCE.

16 C. EACH PROGRAM CONTRACTOR SHALL FILE THE ESTIMATED TAX AND
17 DOCUMENTATION WITH THE DIRECTOR OF THE DEPARTMENT OF INSURANCE ON A FORM
18 PRESCRIBED BY THE DIRECTOR OF THE DEPARTMENT OF INSURANCE. A PROGRAM
19 CONTRACTOR SHALL MAKE ESTIMATED TAX PAYMENTS TO THE DIRECTOR OF THE
20 DEPARTMENT OF INSURANCE FOR DEPOSIT IN THE STATE GENERAL FUND PURSUANT TO
21 SECTIONS 35-146 AND 35-147. THE TAX PAYMENTS ARE DUE ON OR BEFORE SEPTEMBER
22 15, DECEMBER 15, MARCH 15 AND JUNE 15 OF EACH YEAR. THE AMOUNT OF THE
23 PAYMENTS SHALL BE AN ESTIMATE OF THE TAX DUE FOR THE QUARTER THAT ENDS IN THE
24 MONTH THAT PAYMENT IS DUE.

25 D. ON OR BEFORE APRIL 1, 2004 AND ANNUALLY ON OR BEFORE APRIL 1
26 THEREAFTER, THE DIRECTOR OF THE DEPARTMENT OF INSURANCE SHALL USE DATA
27 PROVIDED BY THE ADMINISTRATION TO RECONCILE THE AMOUNT PAID BY EACH PROGRAM
28 CONTRACTOR PURSUANT TO THIS SECTION WITH THE ACTUAL AMOUNT OF TITLE XIX
29 REIMBURSEMENT MADE BY THE ADMINISTRATION TO THE PROGRAM CONTRACTOR IN THE
30 PRECEDING CALENDAR YEAR. IF THERE IS A DISCREPANCY IN THE TWO AMOUNTS, THE
31 DIRECTOR OF THE DEPARTMENT OF INSURANCE SHALL NOTIFY THE PROGRAM CONTRACTOR
32 OF THE DIFFERENCE, PROVIDE A NOTICE OF RIGHT OF APPEAL AND BILL THE PROGRAM
33 CONTRACTOR FOR THE UNPAID AMOUNT OF THE PREMIUM TAX OR, IF THERE IS AN
34 OVERPAYMENT, THE DIRECTOR OF THE DEPARTMENT OF INSURANCE SHALL EITHER REFUND
35 THE AMOUNT OF THE OVERPAYMENT TO THE CONTRACTOR OR ISSUE A CREDIT FOR THE
36 AMOUNT OF THE OVERPAYMENT THAT THE PROGRAM CONTRACTOR CAN APPLY AGAINST
37 FUTURE TAX OBLIGATIONS PRESCRIBED BY THIS SECTION.

38 E. A CONTRACTOR WHO FAILS TO FILE AN ESTIMATED PAYMENT OR PAY AN
39 UNPAID PREMIUM TAX AS PRESCRIBED BY THIS SECTION IS SUBJECT TO A CIVIL
40 PENALTY EQUAL TO THE GREATER OF TWENTY-FIVE DOLLARS OR FIVE PER CENT OF THE
41 AMOUNT DUE AND IS SUBJECT TO INTEREST ON THE AMOUNT DUE AT THE RATE OF ONE
42 PER CENT PER MONTH FROM THE DATE THE AMOUNT WAS DUE.

1 Sec. 3. Requirements for enactment; two-thirds vote

2 Pursuant to article IX, section 22, Constitution of Arizona, this act is
3 effective only on the affirmative vote of at least two-thirds of the members
4 of each house of the legislature and is effective immediately on the
5 signature of the governor or, if the governor vetoes this act, on the
6 subsequent affirmative vote of at least three-fourths of the members of each
7 house of the legislature.

APPROVED BY THE GOVERNOR MAY 1, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2003.

Passed the House March 10, 2003

Passed the Senate April 21, 2003

by the following vote: 52 Ayes,

by the following vote: 23 Ayes,

5 Nays, 3 Not Voting

6 Nays, 1 Not Voting

Jake Flake
Speaker of the House

Klu Bennett
President of the Senate with Art. IX, Sec. 22

Norman L. Fyore
Chief Clerk of the House

Charmine Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

H.B. 2391

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 28, 2003,

by the following vote: 46 Ayes,

13 Nays, 1 Not Voting
Article IX, Section 22

Jake Flake
Speaker of the House
Norman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

28 day of April, 2003

at 2:30 o'clock P. M.

Sandra Ramirez
Secretary to the Governor

Approved this 1 day of

May, 2003,

at 5⁰⁰ o'clock P. M.

Jon R. Arpaio
Governor of Arizona

H.B. 2391

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 2 day of May, 2003

at 3:32 o'clock P. M.

Janice K. Brewer
Secretary of State